

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-07-095

IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF YOUNG AMERICA INSURANCE COMPANY,

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of Young America Insurance Company (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated January 5, 2007 (the "Report"), relevant examiner work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was a corporation licensed by the Division to conduct all lines of property and casualty insurance.
2. In accordance with §§ 10-1-201 to 207, C.R.S., on January 5, 2007, the Division completed a market conduct examination of the Respondent. The period of examination was January 1, 2005 to December 31, 2005.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners and the Colorado insurance examiners' handbook. The Commissioner also employed other guidelines and procedures that she deemed appropriate, pursuant to § 10-1-204(1), C.R.S.
5. The market conduct examiners prepared the Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the

Respondent, its agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.

6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, any and all of Respondent's submissions and rebuttals, and all relevant portions of the examiners' work papers.

CONCLUSIONS OF LAW AND ORDER

8. Unless expressly modified in this Final Agency Order (the "Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue A concerns the following violation: Failure to file an annual forms certification for the period under examination. The Respondent shall provide evidence that it has filed a complete annual forms certification for 2005 that includes all forms being used, and has implemented the necessary procedural changes to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
10. Issue B concerns the following violation: Use of a non-complying cancellation/non-renewal policy expiration notice. The Respondent shall provide evidence that it has amended its cancellation/non-renewal form and has implemented all necessary procedural changes to ensure compliance with Colorado insurance law.
11. Issue C concerns the following violation: Failure to provide advance notification of an increase in premium at renewal. The Respondent shall provide evidence that it has instituted procedures to provide a filed and certified surcharge notification form to all policyholders where a premium increase is evident at renewal and has implemented the necessary changes to ensure compliance with Colorado insurance law.
12. Issue D concerns the following violation: Failure, in some cases, to provide non-renewal notices for market conduct examination review. The Respondent shall provide evidence that it has reviewed its record maintenance procedures for market conduct examination review, and has amended and implemented its document maintenance procedures to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.

13. Issue E concerns the following violation: Failure to state a sufficiently clear and specific reason for non-renewal of a policy. The Respondent shall provide evidence that it has implemented the necessary changes to state a sufficiently clear and specific reason for non-renewal notification of a policy to ensure compliance with Colorado insurance law.
14. Issue F concerns the following violation: Failure to include complete provisions in the policy for cancellations after fifty-nine (59) days. The Respondent shall provide evidence that it has reviewed its policy provisions for cancellations and has implemented the necessary changes to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
15. Issue G concerns the following violation: Failure to provide a quarterly premium payment plan on six (6) month policies. The Respondent shall provide evidence that it has implemented a quarterly premium payment plan for its six (6) month policies to ensure compliance with Colorado insurance law.
16. Issue H concerns the following violation: Failure to actuarially justify use of a merit rating plan that charges for at-fault accidents with thresholds of one thousand dollars (\$1,000.00) or less. The Respondent shall provide evidence that it has reviewed its rating procedures and merit rating plan charges for at-fault accidents with thresholds of one thousand dollars (\$1,000.00) or less and has implemented the necessary changes to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
17. Issue I concerns the following violation: Failure to include policy and renewal fees in the development of rate filings for private passenger automobile policies. The Respondent shall provide evidence that it has submitted a current rate filing that includes the policy and renewal fees in its premium development to ensure compliance with Colorado insurance laws.
18. Issue J concerns the following violation: Failure to file an actuarial justification for using a transfer discount. The Respondent shall provide evidence that it has filed an actuarial justification for its use of the transfer discount in rating new applicants, or discontinue using such transfer discount in rating new applicants to ensure compliance with Colorado insurance law.
19. Issue K concerns the following violation: Failure to provide a disclosure of the provisions of the unfair or discriminatory trade practices law to the beneficiary or claimant after a claim is made. The Respondent shall provide evidence that it has reviewed and has implemented its claims handling procedure to require that the provisions of Colorado's unfair or discriminatory trade practices law are provided to

beneficiaries and claimants after a claim is made to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.

20. Issue L concerns the following violation: Failure, in some cases, to handle private passenger automobile claims properly. The Respondent shall provide evidence that it has reviewed its claims handling practices and has implemented the necessary procedural changes to ensure compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
21. Pursuant to § 10-1-205(3)(d), C.R.S., Respondent shall pay a civil penalty to the Division in the amount of twenty-six thousand five hundred and no/100 dollars (\$26,500.00) for the cited violations of Colorado law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division bulletin no. 1-98, issued on January 1, 1998.
22. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits with the Division executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.
23. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section. All self audits, if any, shall be performed in accordance with the Division's document, 'Guidelines for Self Audits Performed by Companies' presented at the market conduct examination exit meeting. Unless otherwise specified in this Order, all self audit reports must be received within ninety (90) days of the Order, including a summary of the findings and all monetary payments to covered persons.
24. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions as provided for by law.
25. Copies of the examination report, the Respondent's response, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

WHEREFORE: It is hereby ordered that the findings and conclusions contained in the Report dated January 5, 2007, are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 30th day of April, 2007.

A handwritten signature in cursive script that reads "Marcy Morrison".

Marcy Morrison
Commissioner of Insurance

CERTIFICATE OF CERTIFIED MAILING

I hereby certify that on the 30th day of April, 2007, I caused to be deposited the **FINAL AGENCY ORDER No. O-07-095 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF YOUNG AMERICA INSURANCE COMPANY**, in the United States mail via certified mailing with proper postage affixed and addressed to:

Mr. Fred G. Young, President
Young America Insurance Company
4445 Ledbetter Drive
Dallas, TX 75236

Mr. Stan Hvostik, Vice President, Product Management
Young America Insurance Company
4445 Ledbetter Drive
Dallas, TX 75236



Dolores Arrington, AIE, AIRC, ACS, MA
Market Regulation Section
Division of Insurance